



House Bill No. 5212

Public Act No. 06-140

AN ACT CONCERNING FREEDOM OF THE PRESS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective October 1, 2006*) As used in sections 1 to 8, inclusive, of this act:

(1) "Information" has its ordinary meaning and includes, but is not limited to, any oral, written or pictorial material, whether or not recorded, including any notes, outtakes, photographs, video or sound tapes, film or other data of whatever sort in any medium; and

(2) "News media" means:

(A) Any newspaper, magazine or other periodical, book publisher, news agency, wire service, radio or television station or network, cable or satellite or other transmission system or carrier, or channel or programming service for such station, network, system or carrier, or audio or audiovisual production company that disseminates information to the public, whether by print, broadcast, photographic, mechanical, electronic or any other means or medium;

(B) Any person who is or has been an employee, agent or independent contractor of any entity specified in subparagraph (A) of this subdivision and is or has been engaged in gathering, preparing or

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disseminating information to the public for such entity, or any other person supervising or assisting such person with gathering, preparing or disseminating information; or

(C) Any parent, subsidiary, division or affiliate of any person or entity specified in subparagraph (A) or (B) of this subdivision to the extent the subpoena or other compulsory process seeks the identity of a source or the information described in section 2 of this act.

Sec. 2. (NEW) (*Effective October 1, 2006*) No judicial, executive or legislative body with the power to issue a subpoena or other compulsory process may compel the news media to testify concerning, or to produce or otherwise disclose, any information obtained or received, whether or not in confidence, by the news media in its capacity in gathering, receiving or processing information for potential communication to the public, or the identity of the source of any such information, or any information that would tend to identify the source of any such information, unless such judicial, executive or legislative body complies with the provisions of section 3 of this act.

Sec. 3. (NEW) (*Effective October 1, 2006*) (a) Prior negotiations with the news media shall be pursued in all matters in which the issuance of a subpoena to, or the initiation of other compulsory process against, the news media is contemplated for information described in section 2 of this act or the identity of the source of such information, or any information that would tend to identify the source of any such information.

(b) If the news media and the party seeking to compel disclosure of information described in section 2 of this act or the identity of the source of any such information, or any information that would tend to identify the source of any such information, fail to reach a resolution, a court may compel disclosure of such information or the identity of the source of such information only if the court finds, after notice to and an

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opportunity to be heard by the news media, that the party seeking such information or the identity of the source of such information has established by clear and convincing evidence:

(1) That (A) in a criminal investigation or prosecution, based on information obtained from other sources than the news media, there are reasonable grounds to believe that a crime has occurred, or (B) in a civil action or proceeding, based on information obtained from other sources than the news media, there are reasonable grounds to sustain a cause of action; and

(2) That (A) the information or the identity of the source of such information is critical or necessary to the investigation or prosecution of a crime or to a defense thereto, or to the maintenance of a party's claim, defense or proof of an issue material thereto, (B) the information or the identity of the source of such information is not obtainable from any alternative source, and (C) there is an overriding public interest in the disclosure.

(c) A court of this state shall apply the procedures and standards specified by this section to any subpoena or other compulsory process whether it arises from or is associated with a proceeding under the laws of this state or any other jurisdiction, except that with respect to a proceeding arising under the laws of another jurisdiction, a court of this state shall not afford lesser protection to the news media than that afforded by such other jurisdiction. No subpoena or compulsory process arising from or associated with a proceeding under the laws of another jurisdiction shall be enforceable in this state unless a court in this state has personal jurisdiction over the person or entity against which enforcement is sought.

Sec. 4. (NEW) (*Effective October 1, 2006*) The provisions of section 2 of this act protecting from compelled disclosure information described in said section 2 and the identity of the source of any such information

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shall also apply if a subpoena is issued to, or other compulsory process is initiated against, a third party that seeks information concerning business transactions between such third party and the news media for the purpose of obtaining information described in said section 2 or discovering the identity of a source of any such information. Whenever a subpoena is issued to, or other compulsory process is initiated against, a third party that seeks information concerning business transactions between such third party and the news media, the affected news media shall be given reasonable and timely notice of the subpoena or compulsory process before it is executed or initiated, as the case may be, and an opportunity to be heard.

Sec. 5. (NEW) (*Effective October 1, 2006*) Publication or dissemination by the news media of information described in section 2 of this act, or a portion thereof, shall not constitute a waiver of the protection from compelled disclosure provided in section 2 of this act with respect to any information that is not published or disseminated.

Sec. 6. (NEW) (*Effective October 1, 2006*) Any information obtained in violation of the provisions of sections 1 to 8, inclusive, of this act, and the identity of the source of such information, shall be inadmissible in any action, proceeding or hearing before any judicial, executive or legislative body.

Sec. 7. (NEW) (*Effective October 1, 2006*) Whenever any person or entity seeks the disclosure from the news media of information that is not protected against compelled disclosure pursuant to section 2 of this act, such person or entity shall pay the actual cost that would be incurred by the news media in making a copy of such information if a subpoena or other compulsory process was not available, and may not use a subpoena or other compulsory process as a means to avoid paying such actual cost.

Sec. 8. (NEW) (*Effective October 1, 2006*) Nothing in sections 1 to 7,

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inclusive, of this act shall be construed to deny or infringe the rights of an accused in a criminal prosecution guaranteed under the sixth amendment to the Constitution of the United States and article twenty-ninth of the amendments to the Constitution of the state of Connecticut.

Approved June 6, 2006